

PROPOSALS TO CHANGE  
SEN. BARTLETT'S or REP. FLETCHER'S  
DRAFT PROPOSALS

FROM COMMITTEE MEMBERS

1. Rep. Martin
2. Sen. Smith
3. Rep. Fletcher
4. Rep. Hinck



Rep Martin

PROPOSED AMENDMENT TO  
An Act Regarding Maine's Energy Future  
DRAFT COMMITTEE BILL Proposed by Senator Bartlett

OPLA DRAFT PAGE 48

Government Initiative established in Title 38, section 343-H; and

**Sec. 3.5 MRSA §282, sub-§9** is enacted to read:

**9. Energy Independence Fund; revenues from occupancy of state assets.** To establish an energy independence fund for revenues derived from the utilization of state assets for energy transmission systems. Each year, the first \$50,000,000 in revenues collected from such utilization must be transferred by the Treasurer of State to Efficiency Maine Trust for deposit by the trust in program funds pursuant to Title 35-A, section 10103, subsection 5. Thereafter the Treasurer shall deposit additional revenues received into the energy independence fund for use as allocated by the Legislature.

**Sec. 4. Commission established.** The Commission to Study Energy Infrastructure, referred to in this section as "the commission" is established.

**1. Membership.** The commission consists of 13 members appointed as follows:

- A. Three members of the Senate appointed by the President of the Senate;
- B. Seven members of the House of Representatives appointed by the Speaker of the House; and
- C. Three members appointed by the Governor.

**2. Chairs.** The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the Commission.

**3. Appointments; convening.** All appointments must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days

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Drafted: TTB

after appointment of all members, the chairs shall call and convene the first meeting of the commission.

#### **4. Duties; corridors; plan.**

**A. Permitting of Corridor Projects:** The commission shall examine the feasibility and effects of state permitting of high volume energy facilities greater than 50 miles in length, including the potential effects on renewable energy development and other energy development in Maine, including but not limited to liquefied natural gas terminal, development, and the effects on energy prices in Maine and Maine's natural resources and the environment. The plan shall consider the proper role and opportunities of the State of Maine in regional, national and international energy markets and development. The plan shall also evaluate the need for changes to Maine's regulatory system and methods of taxation to ensure protection of the public health, safety and welfare.

**B. State-Owned Land or Assets:** The commission shall examine the feasibility and effects of the state entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a recommended plan governing such agreements that addresses at least the following:

A(1). Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and

B(2). The potential effect of such agreements on renewable energy development in Maine; the development of other energy projects in Maine, including but not limited to liquefied natural gas terminals; energy consumers and ratepayers; and natural resources and the environment.

**C. Review and Findings.** In developing the plan, the commission shall review and analyze the information, analysis and results of the *New England States Regional Energy Blueprint* being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. The commission may also examine and develop findings and recommendations concerning other proposed or potential energy infrastructure and transmission projects that may have significant effects on state energy policy, including but not limited to projects relating to electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or natural gas systems, including pipelines and liquefied natural gas terminals.

**5. Staff; consultants; other assistance.** The Legislative Council shall provide staffing services to the commission. The commission shall seek input from relevant agencies, stakeholders and persons with expertise. All agencies with relevant expertise shall provide technical or other assistance requested by the commission. The commission may retain consultants and other experts to assist the commission in its work.

**7. Report.** No later than December 2, 2009 the Commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124<sup>th</sup> Legislature. The Joint Standing Committee on Utilities and Energy is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 124<sup>th</sup> Legislature upon receipt of the report

**8. Funding.** The following funds are allocated to fund the work of the study:

(OFPR: *insert allocation of \$200,000 from the Public Utilities Commission to the Legislature to fund the study*)

## **Sec. 5. Legislative review of corridor plans.**

**1. Definitions.** For purposes of this section the following terms have the following meanings:

A. "Energy facilities" means lines, cables, pipelines or other structures for the transmission of energy resources, including but not limited to electricity, natural gas or oil.

B. "Significant occupancy agreement" means an occupancy agreement that:

(1) Involves a high voltage direct current electric transmission line;

(2) Involves high volume energy facilities greater than 50 miles in length of a size or type designed or intended to facilitate the transmission of energy resources to and from locations outside the state; or

(3) Is substantially different from any previous occupancy agreement entered into by a state authority, including but not limited to with respect to the type of transportation corridors to be occupied, the manner of occupancy by energy facilities, the physical extent of occupancy by energy facilities, the type of energy facilities involved, or the amount or calculation of any required consideration.

C. "State authority" includes but is not limited to the Governor, the Department of Transportation, the Maine Turnpike Authority or any other state entity, agency or authority.

D. "Transportation corridors" means the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, including the Maine Turnpike Authority.

## **2. Prohibition.**

A. No state authority may permit, except as provided in section 3, a high volume energy facility greater than 50 miles in length until the Legislature approves a plan pertaining to such facilities.

B. No state authority may enter into a sale or lease of state-owned lands or other significant occupancy agreement allowing the longitudinal installation of energy facilities in state transportation corridors or other state-owned lands or assets until the Legislature approves a plan governing such agreements.

~~3. Limitations; exceptions. Nothing in this section prohibits a~~

C. No state authority from may undertaking feasibility studies or exploratory negotiations for a sale or lease of state-owned lands or significant occupancy agreement for a high volume energy facility greater than 50 miles in length until the Legislature approves a plan pertaining to such facilities. ~~Nothing in this section prohibits a~~

D. No state authority from may entering into a limited agreement to engage in further negotiations for such a project after legislative authorization of a plan, until the Legislature approves a plan pertaining to such facilities, provided that any such limited agreement is subject to the express condition that all such further negotiations will occur only if permitted by and only in accordance with all provisions, terms, conditions and limitations of such legislatively authorized plan. A state authority shall ensure that any study, negotiation or preliminary agreement is undertaken or entered into with the full awareness by all parties of the provisions of this section.

3. Limitations; exceptions. Nothing in this section prohibits a state authority from undertaking feasibility studies or exploratory negotiations issuing a permit for a high volume energy facility greater than 50 miles in length for which an application was pending as of April 1, 2009. -Nothing in this section prohibits a state authority from entering into an agreement allowing occupancy of state transportation corridors or other state-owned lands by high volume energy facilities greater than 50 miles in length for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009, provided the sale, lease or other occupancy agreement does not involve substantially different terms or conditions from any previous occupancy agreement entered into by a state authority with respect to the type of transportation corridors to be occupied, the manner of occupancy, the physical extent of occupancy or the amount or calculation of any required consideration.

4. Public Records. Notwithstanding any other provision of law, all documents created or received by any state authority prior to Legislative adoption or a plan in conjunction with the negotiation of a significant occupancy agreement, including without limitation, any preliminary

documents prepared in anticipation of such negotiations or distributed or received in advance of such negotiations, shall be deemed public records within the meaning of 1 MRSA §402(3).

**5. Repeal**~~4. Repeal.~~ This section is repealed 90 days after the adjournment of the Second Regular Session of the 124<sup>th</sup> Legislature. This Section is repealed 90-days after the effective date of Legislative approval of a plan as provided in subsection 2.





**SEN. SMITH PROPOSED AMENDMENT TO  
REP. FLETCHER'S or SEN. BARTLETT'S ROPOSAL**

Expressly provide that the new entity in administering existing programs (electric conservation, natural gas conservation, RGGI funds and federal programs -- consistent with the legal parameters governing the use of those funds) and in administering all new programs (heating fuel weatherization and/or efficiency programs) include measures that improve the energy efficiency of energy-using systems, including heating or cooling systems. Such measures may include system upgrades or conversions that significantly improve energy efficiency as well energy efficient systems that rely on renewable energy sources, including but not limited to biomass, wood pellets, solar, wind, or geothermal resources.



**PROPOSED AMENDMENTS  
REP. FLETCHER**

**AMENDMENT OF REP. FLETCHER'S DRAFT PROPOSAL:**

1. Throughout, change all references to "quadrennial plan" to "triennial plan"
2. (NOTE: as written, ex officio members are voting members – that is Rep. Fletcher's intent)

**AMENDMENT TO SEN. BARTLETT'S DRAFT PROPOSAL:**

Amend Part G (with F Transmission Corridors per Sen. Bartlett's Draft in it's entirety with the follow changes as indicated in red)

Sec. 3.5 MRSA sec 282 sub sec 9 (pages 48, 49, 50 Bartlett's Draft)....

9. Energy Independence Fund: Revenues form occupancy of state assets.....

*Include all sections as written with changes as noted.....*

**4. Duties: corridors; plan**

**A. Permitting of Corridor Projects:** The commission shall examine the feasibility and effects of state permitting of high volume energy facilities greater than 50 miles in length, including the potential effects on renewable energy development and other energy development, and the effects on energy prices in Maine and Maine's natural resources and environment. The plan shall consider the proper role and opportunities of the State of Maine in regional, national and international energy markets and development. The plan shall also evaluate the need for changes to Maine's regulatory system and methods of taxation to ensure protection of the public health, safety and welfare.

**B. State-Owned Land and Assets:** The commission shall examine the feasibility and effects of the state entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, federal interstate highway system, state-owned or state controlled rail corridors or other state transportation corridors, for the installation of lines , cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a recommended plan governing such agreements that addresses at least the following:

A- (1) Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and

B-(2) The potential effect of such agreements on renewable energy development in Maine; the development of other energy projects in Maine, including but not

limited to liquefied natural gas terminals, energy consumers and ratepayers; and natural resources and the environment.

C. Review and Findings. In developing the plan, the commission shall review and analyze the information, analysis and results of the *New England States Regional Energy Blueprint* being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. ~~The commission may also examine and develop findings and recommendations concerning other proposed or potential energy infrastructure and transmission projects that may have significant effects on state energy policy, including but not limited to projects relating to electric transmission systems, including new lines, system upgrades or the development of a smart grid, or natural gas systems, including pipelines and liquefied natural gas terminals.~~

*Include sections 5, 7, and 8 as written*

**Sec 5 Legislative Review of Corridor plans** *include as written for 1. Definitions and A...B (1)*

B. (2) Involves high volume energy facilities greater than 50 miles in length of a size or type designed or intended to facilitate the transmission of energy resources to and from locations outside the state; or

(3) *include as written*

*Include C and D. written.....*

## **2. Prohibition**

A. No state authority may permit, except as provided in section 3, a high volume energy facility greater than 50 miles in length in state transportation corridors until the Legislature approves a plan pertaining to such facilities.

**B. No state authority may enter into a sale or lease of state-owned lands or other significant occupancy agreement allowing the longitudinal installation of energy facilities in state transportation corridors or other state-owned assets until the Legislature approves a plan governing such agreements.**

C. No state authority may undertake feasibility studies or exploratory negotiations for a sale or lease of state-owned lands or significant occupancy agreement for a high volume energy facility greater than 50 miles in length until the legislature approves a plan pertaining to such facilities.

D. No state authority may enter into alimited agreement to engage in further negotiations for such a project until the Legislature approves a plan pertaining to such facilities

**3. Limitations; exceptions.** Nothing in this section prohibits a state authority from undertaking feasibility studies or exploratory negotiations issuing a permit for a high volume energy facility greater than 50 miles in length which an application was pending as of April 1, 2009. Nothing in this section prohibits a state authority from entering into an agreement allowing occupancy of state transportation corridors or other state-owned lands by high volume energy facilities greater than 50 miles in length for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009, provided the sale, lease or other occupancy agreement does not involve substantially different terms or conditions from any previous occupancy agreement entered into by a state authority with respect to the type of transportation corridors to be occupied, the manner of occupancy, the physical extent of occupancy or the amount or calculation of any required consideration.

**4. Public Records.** Notwithstanding any other provision of law, all documents created or received by any state authority prior to Legislative adoption of a plan in conjunction with the negotiation of a significant occupancy agreement, including without limitation, any preliminary documents prepared in anticipation of such negotiations or distributed or received in advance of such negotiation, shall be deemed public records within the meaning of 1MRSA sect 402(3).

**5. Repeal.** This section is repealed 90 days after the adjournment of the Second Regular Session of the 124<sup>th</sup> Legislature. This section is repealed 90 days after the effective date of Legislative approval of a plan as provided in subsection 2.



**PROPOSED AMEND TO SEN. BARTLETT'S DRAFT  
Representative Hinck**

Two alternatives:

**Proposal #1**

Amend §10118 in bill to read:

**§ 10118. Heating Fuels Efficiency and Weatherization Program**

1. Heating fuels efficiency and weatherization charge. Beginning January 1, 2010, a heating fuels efficiency and weatherization system benefit charge as established in this subsection is assessed on:

A. Each barrel of #2 heating oil or kerosene that is first transferred by a terminal facility licensed under Title 38, section 545 or first transported into this State by a person required to register pursuant to Title 38, section 545-B; and

B. Each barrel or equivalent quantity of propane that is first transported into this state for sale in this State, as determined by the commission by rule.

The charge is not assessed on any fuels that are exported from this State.

The heating fuels efficiency and weatherization system benefit charge per barrel or its equivalent is \$ .84.

Rules adopted under this subsection are routine technical rules as defined in Title 5, Chapter 375, subchapter 2-A.

2. Collection of charges; transfer to trust. Any system benefit charge assessed under subsection 1 must be paid monthly to the commission and upon receipt by it transferred to the Heating Fuels Efficiency and Weatherization Fund established in subsection 4. The commission shall by order establish a process for collecting the charge and transferring it to the fund.

3. Rebates. The commission shall adopt rules establishing a process by which an amount equivalent to the average amount of the charge assessed under subsection 1 that is directly or indirectly passed on to eligible low-income households is rebated to those households, except that the commission may exclude households that the commission determines to have received adequate weatherization services after January 2010. Prior to adopting rules, the commission shall consult with the Office of Integrated Access and Support in the Department of Health and Human Services, the Maine State Housing Authority and interested parties to determine the appropriate process for providing the required rebate. For purposes of this subsection, "eligible low-income households" means households with incomes below 200% of the federal poverty level for the family size involved, including tenants who pay for heating fuels directly or indirectly through their rent.

The commission shall also by rule establish a process and criteria for providing rebates or

exceptions from the charge assessed under subsection 1 to individual customers or consumer groups that do not use the fuels for space heating or domestic hot water, including entities that use the fuels for electric generation purposes, industrial process and manufacturing purposes and transportation purposes.

Rules adopted under this subsection are routine technical rules as defined in Title 5, Chapter 375, subchapter 2-A.

**4.1. Fund established; use of money.** There is established Heating Fuels Efficiency and Weatherization Fund, referred to in this subsection as "the fund". The fund is a nonlapsing fund and is administered by the Efficiency Maine Trust in accordance with this section. Any interest earned on funds in the fund must be credited to the fund and funds not spent in any fiscal year remain in the fund to be used in accordance with this subsection. The trust may receive and deposit in the fund funds from the following sources:

A. Any funds Funds collected from an the assessment on heating fuels pursuant to this section;

B. Federal funds and awards received by the board that may be used for the purposes of this section;

C. The proceeds of any bonds issued for the purposes of this section;

D. Principal and interest received from the repayment of loans made from the fund;

E. Any interest earned on investment of fund balances; and

F. Any other funds from public or private sources received in support of the purposes for which the fund is established, and any private funds that are loaned or granted to building owners by private partners approved by the board.

The trust may annually deposit funds received pursuant to this section into the administration fund, up to a maximum in any fiscal year of 10% of the revenues received under this section.

**5.2. Program.** All funds deposited in the fund must be administered by the trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial plan and to achieve the following goals:

A. By 2030, to provide cost-effective energy efficiency and weatherization measures to substantially all homes and businesses that wish to participate in programs established by the trust under this section.

**6.3. Rulemaking.** The board may adopt rules to implement subsections 4 and 5 of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**4. Effective date.** This section takes effect July 1, 2010.



**Proposal #2 (Alternative funding):**

1. Establish a goal of providing by 2030 weatherization and efficiency services to all residences and businesses that want and need services
2. Direct the Trust to develop by rule a BTU-neutral assessment on all heating fuels, including a KWH SBC on electricity, to achieve this goal (industrial customers to be exempted)
3. The Trust would present the proposal to the PUC for approval
4. The PUC-approved proposal would then be submitted to the Legislature
5. Unless the Legislature took action to reject the proposal, it would take effect on a certain specified date.